

**TASK FORCE TO EXAMINE IMPROVEMENTS TO
THE OHIO GRAND JURY SYSTEM**

Minutes of the February 17, 2016, Meeting

Members present: Judge Stephen McIntosh (Chair), Daniel Lutz (Vice Chair), Senator Kevin Bacon, Senator Edna Brown, Judge Joyce Campbell, Representative Robert Cupp, Judge Michelle Earley, Judge William Finnegan, Judge Steven Gall, Professor Mark Godsey, Judge Michael Goulding, Chief Eliot Isaac, Janet Jackson, Judge Melissa Powers, Professor Ric Simmons, Representative Fred Strahorn, Roger Synenberg, and Judge Stephen Wolaver

Others present: Chief Justice Maureen O'Connor, Administrative Director Michael Buenger, and John VanNorman of the Supreme Court

I. Call to Order. Judge McIntosh called the Task Force meeting to order at 6:04 p.m.

II. Welcome and Opening Remarks / Charge to the Task Force and Review of its Duties. Chief Justice O'Connor welcomed the members of the Task Force and thanked them for their willingness to serve. Noting the importance of having a grand jury process that commands the respect and allegiance of all Ohioans, Chief Justice O'Connor outlined the Task Force's duties. The Task Force is to examine and recommend any improvements to the grand jury system. Specifically, the Task Force is to review all of the following:

- The grand jury systems used in other states;
- R.C. Chapter 2939 and Crim.R. 6 to (1) recommend any necessary amendments to the statutes or rule to improve the neutrality and objectivity of the grand jury system; (2) determine whether the rule should be amended to revise those provisions concerning secrecy of grand jury deliberations; and (3) recommend any necessary amendments to reconcile inconsistencies between the statutes and rule;
- The topic of grand juror education and instruction to do both of the following: (1) determine whether grand jury instructions should be included in the Ohio Jury Instructions; (2) determine whether there is a need for improved grand juror orientation and education;
- The topic of public understanding of the grand jury system to do both of the following: (1) address the public perception of the grand jury system and the basis for such perception and, if necessary, recommend ways to improve the public's trust and confidence in the system; (2)

address public understanding of the grand jury system and, if necessary, recommend ways to improve public education about the system;

- Any other topics the task force deems necessary to improve the grand jury system.

III. Introduction of Members and Support Staff. The following members introduced themselves:

- Judge Stephen McIntosh - Franklin County Court of Common Pleas (chair);
- Daniel Lutz - Wayne County Prosecuting Attorney (vice chair);
- Senator Kevin Bacon;
- Senator Edna Brown;
- Judge Joyce Campbell - Fairfield County Municipal Court;
- Representative Robert Cupp;
- Judge Michelle Earley - Cleveland Municipal Court;
- Judge William Finnegan - Marion County Court of Common Pleas;
- Judge Steven Gall - Cuyahoga County Court of Common Pleas;
- Professor Mark Godsey - University of Cincinnati College of Law;
- Judge Michael Goulding - Lucas County Court of Common Pleas;
- Chief Eliot Isaac - Cincinnati Police Department;
- Janet Jackson - President and CEO United Way of Central Ohio;
- Judge Melissa Powers - Hamilton County Municipal Court;
- Professor Ric Simmons - The Ohio State University Moritz College of Law;
- Representative Fred Strahorn;
- Roger Synenberg - Synenberg, Coletta & Moran, LLC;
- Judge Stephen Wolaver - Greene County Court of Common Pleas.

Additionally the following Supreme Court staff members introduced themselves:

- Administrative Director Michael Buenger;
- Craig Mayton, Chief Legal Counsel;
- John VanNorman, Senior Policy and Research Counsel and staff liaison to the Task Force;
- Michael Farley, Judicial & Legislative Affairs Counsel;
- Jesse Mosser, Staff Attorney.

IV. Presentations / Overview of the Grand Jury System. Professor Simmons began the educational portion of the Task Force meeting by providing an overview of the grand jury system from a national perspective, addressing topics such as the historic purpose of grand juries, procedural and structural differences between states; arguments for and against the use of grand juries; use of special prosecutors;

secrecy of grand jury proceedings and records; and recent grand-jury related national events.

Professor Godsey, Judge Earley, Judge Wolaver, and Daniel Lutz followed Professor Simmons presentation, each discussing his or her experience working with grand juries, both within and outside of Ohio. Topics discussed included the presentation of evidence, including exculpatory evidence, and testimony by law enforcement and the accused; the amount of time taken per case; and procedures followed during the process.

V. **Discussion of Next Steps / Establishment of Workgroups.** The Task Force members addressed next steps. Judge McIntosh discussed the creation of the following five subcommittees:

- **Jury / Public Education.** The workgroup will be chaired by Janet Jackson and is charged with the following duties:
 1. Addressing the public perception of the grand jury system and the basis for such perception and, if necessary, recommending ways to improve the public's trust and confidence in the system;
 2. Addressing public understanding of the grand jury system and, if necessary, recommending ways to improve public education about the system.

- **Rule and Statute Review / Reconciliation.** The workgroup will be chaired by Representative Robert Cupp and is charged with the following duties:
 1. Reviewing grand jury systems used in other states;
 2. Reviewing R.C. Chapter 2939 and Crim.R. 6 to (a) determine whether improvements are necessary to improve the neutrality and objectivity of the grand jury system and, if so, recommend amendments; (b) determine whether the rule should be amended to revise those provisions concerning the grand jury deliberation process; and (c) determine if there are inconsistencies between the statutes and the rule and recommend any necessary amendments to reconcile those inconsistencies.

- **Police Use of Lethal Force.** The workgroup will be chaired by Judge McIntosh and is charged with determining if new processes or procedures are needed to ensure fairness and equality in cases involving police use of lethal force and, if so, make recommendations for improved processing or procedures in such cases.

- **Grand Jury Secrecy.** The workgroup will be chaired by Judge Michelle Earley and is charged with reviewing the reasons for grand jury secrecy and determine whether changes, which are consistent with these reasons, are needed to improve the process and public confidence in the grand jury system.
- **Role of Judiciary / Prosecution.** The workgroup will be co-chaired by Judge Stephen Wolaver and Daniel Lutz and is charged with the following duties:
 1. Determining whether more extensive grand jury instructions should be included in the Ohio Jury Instructions;
 2. Determining whether there is a need for improved grand juror orientation and education;
 3. Determining whether the current balance between prosecutorial and judicial roles in the grand jury system needs to be modified.

Following review of the workgroups, Task Force members were asked to submit their workgroup assignment preference. Judge McIntosh and staff will, to the extent possible, assign members to workgroups based upon their preferences. Judge McIntosh also indicated his desire that, once membership is determined, each workgroup conduct a conference call before the next meeting.

- VI. Public Comment Period.** Judge McIntosh indicated that a period of time had been reserved on the agenda to allow those members of the public in attendance to provide comments to the Task Force. However, no individuals chose to speak.
- VII. Organizational Matters.** Mr. VanNorman noted that copies of the Task Force's Operating Guidelines, the roster, and the Supreme Court's Code of Ethics for Court Appointees. Mr. VanNorman asked that members wishing to be reimbursed for travel for the meeting to please submit a reimbursement form to him.
- VIII. Scheduling of Future Meeting Dates.** The members scheduled the next two Task Force meetings for March 4th and April 1st from 10:00 a.m. until 2:00 p.m. at a location to be determined.
- IX. Adjournment.** There being no further business to come before the Task Force, the Task Force adjourned at 7:50 p.m.